

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: December 13, 2001

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA01-0096 for Coastal Development Permit and Variance

PROPOSAL: Coastal Development to demolish existing single-family dwelling and construct a new 11,900 square foot, four-level (two floors over basements) single-family dwelling on a 13,200 square foot lot. Proposal also includes construction of a new swimming and spa and grading of 5,900 cubic yards of earth. A Variance is requested to permit a garage setback of 15 feet from the street when the County standard garage setback is 18 feet.

LOCATION: In the community of Emerald Bay, ocean side of Pacific Coast Highway at 171 Emerald Bay, Laguna Beach. Fifth Supervisorial District

APPLICANT: Gerald and Bente Buck, property owners
C. J. Light Associates, agent

STAFF William V. Melton, Project Manager
CONTACT: Phone: (714) 834-2541 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA01-0096 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site is located on a peninsula on the southwestern edge of Emerald Bay. The site is steep bluff property ranging in elevation from 30 feet above sea level at the rear of the lot to 125 feet at the front of the property. The rear property line abuts an open space/beach area belonging to the adjacent Irvine Cove residential development in the City of Laguna Beach. The property is developed with an existing multi-level single-family dwelling setback 7 feet-8 inches from the front property line. The home was constructed in 1970 and is approximately 4,200 square feet in size. A pathway is currently constructed from the rear of the home to the beach area at the rear.

The applicant proposes to demolish the existing home and construct a new four-level dwelling containing 11,900 square feet of living area. The structure has two levels above grade and two levels (daylight basement) below grade. A total of 11 on-site parking spaces are provided, 7 of which are covered. An oversized two-car garage is large enough to provide a total of 4 parking spaces, and an oversized one-car garage is large enough to provide a total of 3 parking spaces. One uncovered space parking spaces is

provided on the south side of the dwelling and three uncovered parking spaces (in tandem) are provided on the north side of the dwelling. From the front street level, the dwelling will appear to be two stories in height with the top of the roof 28 feet above the front curb elevation. In addition to the proposed new dwelling, a pool and spa are proposed at the rear of the dwelling. Additionally, the existing pathway will be modified and improved. In order to construct the proposed dwelling, an estimated 5,900 cubic yards of earthwork is required. Of that total, 5,600 cubic yards is export. The Coastal Development Permit includes this grading.

The applicant requests a front yard setback variance to allow the two garage's to be setback between 15 and 16 feet from the edge of the street curb line when a setback of 18 feet is standard. Setbacks for garages in Emerald Bay are setback from edge of curb because there are no sidewalks between the homes and the street. The home is proposed to be setback 7 ½ feet from the front property line. While a front setback of 20 feet is normally required for new construction in the R1 District, Section 7-9-128 of the Zoning Code allows for a front setback that is the average of the setbacks of the two homes on either side. This 7 ½ front setback for the proposed dwelling is the average of the two adjoining front yard setbacks.

SURROUNDING LAND USE: assumes Pacific Coast Highway run north/south

The subject site and all surrounding properties are zoned R1 "Single-family Residence" CD "Coastal Development Permit" District, except for the property to the west (ocean side) which is part of the Irvine Cove residential development in the city of Laguna Beach. The site is also within a certified Local Coastal Program (Emerald Bay LCP). All properties in Emerald Bay ocean side of PC are subject to the CD District of the Zone Code and development projects are subject to appeal to the Coastal Commission. Surrounding properties are developed with single-family dwellings.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site and all occupants of dwelling within 100 feet of the site (Coastal Development Permit requirement). Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to 6 County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Emerald Bay Community Association approved the proposal at its May1, 2000 meeting.

CEQA COMPLIANCE:

Negative Declaration No. PA010096 (Exhibit 2) has been prepared for this proposal. It was posted for public review on and became final on November 22, 2001. Prior to project approval, this ND must be found adequate to satisfy the requirements of CEQA by the Zoning Administrator. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The proposed removal of a house on a lot and replacement with a substantially larger house is common in the Emerald Bay community. This is true for sites on the ocean side and inland side of Pacific Coast Highway. In the last year numerous Planning Applications have been received requesting approval of discretionary permits to remove a home and construct a larger home. In addition to the Coastal Development Permits, the majority of these applications include a request for a front or rear yard variance, a Use Permit for over height walls in the setback area, and a Site Development Permit for grading. This proposal involves a Coastal Development Permit (including the grading) and a front setback variance request.

The proposed structure is located at approximately the same location as the existing structure. The building footprint of proposed structure extends down the bluff 5 to 7 feet beyond the limit of the existing footprint. Since this is a bluff top lot, there are sometimes “string line” issues and associated ocean views with new home location on the bluff. Emerald Bay uses a procedure to establish the location of a structure on a lot based on the location of the structures on the lot on either side. In most cases a new structure cannot encroach beyond a string line connection the outer most points of the two adjoining lots. The County does not include site development standards regarding this string line or views. The Scenic Resources section of the Land Use Plan of the Emerald Bay LCP establishes the Emerald Bay Board of Directors with the responsibility to “*Ensure that existing ocean views of surrounding property owners within the community are preserved.*” The string line and associated ocean views is established and administrated by the community association. According to the applicant, the Emerald Bay Community Association did not have an issue with this string line setback for the proposed structure. Staff notes that the structure to the south of the subject lot projects further down the slope than is proposed by the applicant’s structure. The pool and spa proposed are at the same ground elevation as the lower basement level and will have no effect on ocean views from adjoining properties.

The front setback requirement for the dwelling on this site is determined by averaging the setbacks of the two adjoining lots. The front setback conforms to this standard. However, the garage entrance setback has a different standard. The setback standard for a garage in Emerald Bay is 18 feet from the curb line. Since the two garages are setback only 15 and 16 feet a variance is required. The Emerald Bay CC&Rs allows for a setback of 5 feet in most cases. The construction plans call for a “two-car” garage to have a setback of 15 feet from street curb and “one-car” garage to have a setback of 23 feet from the street curb. A standard garage setback is 18 feet from the street curb. The site requires two covered spaces. The applicant’s plans call for 5 covered spaces and 5 open spaces.

Front and rear setback variance requests are common in Emerald Bay. Even though there does not appear to be issues with the variances proposed, State and County laws require that a variance application may be approved only if the approving agency makes the variance findings listed below. If the Zoning Administrator cannot make these findings, then the variance request must be disapproved.

1. *There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.*

2. *Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.*

Staff is of the opinion that the Zoning Administrator is able to make these two variance findings and approve the variance request for this proposal. The special circumstance required by finding 1 above is found in Appendix A, Finding No. 15 which states: *“The special circumstances are: the steep topography of the site together with the restrictive Emerald Bay CC&Rs prohibit the applicant from constructing a single-family dwelling that could otherwise be constructed under County’s R1 zoning site development regulations applicable to the site.”* In conclusion, staff’s review determined the applicant’s proposed Coastal Development Permit for a new single-family dwelling, proposed grading and variance request are consistent with other bluff top properties previously approved in Emerald Bay. Staff supports the applicant's proposal and makes a recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA01-0096 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Environmental Documentation
- 3. Site photos and aerial photos
- 4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.